

ALEJANDRO HERRERA,)	3:11-cv-00026-ECR-VPC
)	
Plaintiff,)	COA No. 12-15723
)	
vs.)	<u>Order</u>
)	
CHIEF OF POLICE MICHAEL POEHLMAN,)	
et al.,)	
)	
Defendants.)	
)	
)	

On February 21, 2012, Plaintiff filed a motion (#11) for an extension of time to serve the summons and complaint, which was denied (#13) because the deadline to complete service was November 23, 2011, and Plaintiff did not contact the court regarding his case until February 2012 or provide good cause for his failure to serve.¹ As a result, Plaintiff's claims against Jason Daniels were dismissed

¹ Plaintiff alleged in his motion filed February 21, 2012 that he is incarcerated and therefore had limited access to materials and information. However, Plaintiff was initially released from the Nevada Department of Corrections on June 2, 2011 (#9), and failed to contact the Court regarding his case for eight months.

1 (#14) without prejudice for failure to effect timely service under
2 Rule 4(m).

3 On March 30, 2012, Plaintiff filed a Notice of Appeal (#17)
4 regarding the dismissal (#14) of his claims without prejudice for
5 failure to serve. On April 4, 2012, the Court of Appeals for the
6 Ninth Circuit referred (#21) this matter to the Court for the
7 purpose of determining whether in forma pauperis status should
8 continue for this appeal or whether the appeal is frivolous or taken
9 in bad faith. See 28 U.S.C. § 1915(a)(3). The Court finds that
10 Plaintiff's appeal is frivolous for the reasons set forth above and
11 finds that **IN FORMA PAUPERIS STATUS SHOULD BE REVOKED** for purposes
12 of the appeal.

13 Also pending are a Motion for Request for Counsel (#15) filed
14 on March 9, 2012, and a Motion for an Order to Produce Documentation
15 (#16) requesting that the Court order that all documentation for
16 Plaintiff's case be produced by the Reno Police Department and the
17 Chief of Police Michael Poehlman. The Motion for Counsel (#15) was
18 filed before the Notice of Appeal (#17) and after our dismissal of
19 Plaintiff's claims against Daniels. Because this case was dismissed
20 for the reasons set forth above, Plaintiff's Motions (##15, 16) are
21 **DENIED**.

22 The Clerk of the Court shall transmit a copy of this order to
23 the Ninth Circuit Court of Appeals.

24
25 DATED: April 20, 2012.

26 
27 UNITED STATES DISTRICT JUDGE
28